

REMARKS

The Applicants acknowledge the Examiner's comprehensive Office Action with appreciation. Claims 14-28 remain pending in the application; however, Claims 26-28 have been withdrawn from consideration as a result of the previously issued Restriction Requirement. The Office maintains this Restriction Requirement and makes it Final. The Office raises rejections under 35 USC § 112, first paragraph. The Office also raises objections as to form. The Office indicates that Claims 14-23 are allowable.

The Office acknowledges the Information Disclosure Statement (IDS) filed with the filing papers of the instant application; however, the Office states that EP 0841337 as well as the Motohashi, et al. and Morgan, et al. references are missing. The Office also requests clarification with respect to the dates listed in the International Search Report and International Preliminary Examination Report. With the instant Response, the Applicants supply the requested references as well as a new Form PTO-1449 which clarifies that the date for both the International Search Report and the International Preliminary Examination Report is February 23, 2004. The Applicants respectfully request that the Office consider the listed references.

The Office states that the Declaration submitted with the filing papers of the instant application is defective because the filing date of the French priority document is listed as 10/12/2002, and the correct date is 10/18/2002. With the instant Response, the Applicants provide a substitute Declaration in compliance with 37 CFR § 1.67(a) which lists the correct filing date of the French priority document.

With regard to the previously issued Restriction Requirement, the Office acknowledges the Applicants' Election of Group I *with traverse* and requests cancellation of the non-elected subject matter. With the instant Amendment, the non-elected subject matter has been cancelled without prejudice to its prosecution in a Divisional Application.

Claim 24 is rejected for lack of enablement under 35 USC § 112, first paragraph. It is the position of the Office that the specification, while being enabling for treatment of certain types of cancer does not reasonably provide enablement for treatment of cancer in general. The Office states that this rejection could be overcome by limiting Claim 24 to treatment of prostate carcinoma, non-small lung cell carcinoma, colon carcinoma, and epidermoid carcinoma. With the instant Amendment, Claim 24 has been amended to limit the conditions claimed to be treatable to prostate carcinoma, non-small lung cell carcinoma, colon carcinoma, and epidermoid carcinoma, which conditions are acknowledged as enabled by the Office. Reconsideration and withdrawal of the lack of enablement rejection is respectfully requested.

The Office raises an objection to pharmaceutical composition Claim 25 based on the phrase "useful in treating cancer." It is the position of the Office that functional language is of no patentable relevance in pharmaceutical composition claims. With the instant Amendment, Claim 25 has been amended to delete the phrase "useful in treating cancer."

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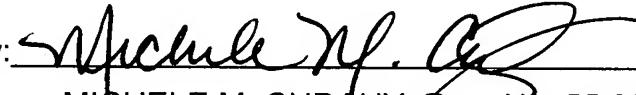
Accordingly, entry of the present amendment and substitute Declaration, reconsideration of all grounds of objection and rejection, withdrawal thereof, and passage of this application to issue are all hereby respectfully solicited.

It should be apparent that the undersigned agent has made an earnest effort to place this application into condition for immediate allowance. If she can be of assistance to the Examiner in the elimination of any possibly-outstanding insignificant impediment to an immediate allowance, the Examiner is respectfully invited to call her at her below-listed number for such purpose.

Allowance is solicited.

Respectfully submitted,

THE FIRM OF HUESCHEN AND SAGE

By: 
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Enclosure: Substitute Declaration and Power of Attorney; Form PTO-1449 and Accompanying References; Listing of Claims; and Postal Card Receipt

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THE COMMISSIONER IS HEREBY AUTHORIZED TO CHARGE ANY FURTHER OR ADDITIONAL FEES WHICH MAY BE REQUIRED (DUE TO OMISSION, DEFICIENCY, OR OTHERWISE), OR TO CREDIT ANY OVERPAYMENT, TO DEPOSIT ACCOUNT NO. 08,3220.